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# WHAT SHALL WE DO WITH THE EXCISE QUESTION?

BY THE HON. WARNER MILLER.

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THE evils of free, or unregulated, trade in alcoholic beverages are universally acknowledged ; in every civilized government the traffic is controlled, or regulated, by law. The object of the regulation is to lessen the evils of a trade, which no government has been able to successfully prohibit.

Whether the craving of man for stimulating drinks is natural, or artificial, need not be discussed here. The demand for alcoholic liquors, in some form, is universal, and the laws for its suppression and regulation are greater, in number and variety, than all other laws affecting the social life of man. Such laws have generally taken one of two forms, either that of absolute prohibition, or of regulation and control through excise, or license laws. Prohibition has been tried, and proved a failure, except in a few States in which there are no large cities. I propose to consider, briefly, only the question of the license system, and to inquire what plan will probably produce the best results.

The first question that presents itself is : What form of license will minimize the evils of the trade ?

Second. How can such law be most effectually enforced, without trespassing upon the rights of the individual citizen ?

Third. What fee, or rate of license, will best advance the end sought, of lessening the evils of the business, and at the same time bring the largest possible returns to the State, or municipality ?

In considering these questions, it is not wise to indulge in theories as to what law might prove the most effectual, under imaginary conditions ; but rather to confine ourselves to an examination of the laws, which in some of the States have been found to

work well, and, after a trial of a number of years, have received the general approval of the people.

The present law of the State of New York does not seem to meet with the approval of any class of our citizens. It is difficult to understand why it does not meet with the approval of the liquor dealers themselves, because, under it, their numbers are larger, in proportion to the population, than in any other State, and the average fees are less. It certainly does not meet with the approval of any of the people who desire to see the business thoroughly under control, and the law uniformly enforced. The chief fault of the New York law is that it keeps the excise question constantly in politics, both locally and in the State at large. The law does not fix the license fee, but between a very low minimum, and a moderate maximum, it leaves each locality free to make the rate what it likes. This leads to contests at each election of excise commissioners, the voters being divided—some favoring the maximum rate, and some the minimum, and some being opposed to any license at all. The result is the low rate usually wins. The law should fix the rate absolutely, making grades for cities of the first and second class, for the third class, for villages, and for the country districts, leaving no discretion whatever with the Excise Board.

The law fails to make proper provisions for its enforcement. In the cities, the police are required to make arrests for violation of the law, but they do not enforce the law, unless constantly urged to do so by the Police Commissioners, or those in authority. There is a constant temptation for the police to sell protection to the dealers ; in other words to levy blackmail. When the police do perform their duty and make arrests, there is great delay in the courts, and many cases are never tried at all, as the records in the District Attorney's office prove. In the rural districts the enforcement of the law is left, mostly, to the voluntary act of the private citizen in making complaints. The private citizen does not like to incur the danger of acting as a detective, in making complaints against his neighbor ; consequently, few complaints are made, and the law is constantly violated. It frequently happens that a community is aroused at the open and flagrant violation of the law ; then the citizens make common cause, by the organization of law and order leagues, which assume the responsibility of seeking out violators of the law and pun-

ishing them. There should be no necessity of this ; the law should furnish adequate means for its enforcement, by making it the duty of certain officers to enforce it, and provide severe penalties for all officers who fail to do their full duty in the matter.

The New York law has resulted in producing from two to four times as many saloons as there is any proper demand for ; it has created and encouraged the "dive," the place where criminals of both sexes congregate, to plan and commit crime. These dives are the rendezvous of the most notorious criminals in all our cities ; they should be closed, and completely destroyed by the strong arm of the law. The remedy for this condition of affairs is to reduce the number of saloons, by at least one-half, and to close the dives, by making the license fee so large that they cannot exist. This would put the business in the hands of responsible parties, whose own interest will be to obey the law, and to aid the officers of the law in fully enforcing it. I believe that this result can be best obtained by a high license law, limiting the number of places licensed to one for each five hundred, or more, of population. Several of the States have laws of this character, and they have been found to give most satisfactory results. The Laws of Pennsylvania, and Massachusetts, contain many provisions which the State of New York might copy with advantage.

The Pennsylvania law is known as the Brooks High License Law. It has been in operation some seven or eight years and has given very general satisfaction. It provides a license fee of one thousand dollars (\$1,000.00) in cities of the first and second class, and five hundred dollars (\$500.00) in cities of the third class, proportionately reducing the rates for villages and country districts. The granting of licenses, instead of being given to excise or license boards, is confined to the Courts, and the granting of licenses is made with all the formalities of a court proceeding. Notice of application must be filed in advance, and a day fixed for a hearing, when any person opposed to the granting of the license may appear, and be heard. The Court has absolute discretion as to the granting of licenses ; it may grant any number, or it may refuse to grant any at all ; and it may reject an application upon any ground that seems sufficient to the Court itself. The law does not fix the number of licenses to be granted in proportion to the population ; it leaves the matter entirely in the hands of the Court. The result has been that, in Philadel-

phia, the number of licensed places has been reduced by two-thirds. When the law went into effect, the number of licenses in Philadelphia was about six thousand ; now it is about seventeen hundred. The police records of the Criminal Courts show a large diminution in the number of arrests for drunkenness, and other crimes growing out of the use of liquor.

Two of the most important provisions of the law relate to its enforcement. All police officers and constables are required to make a thorough examination of their respective districts, and to report to the Court, at least once a month, all places in their jurisdiction which have licenses (whether they have violated their license or not), and also all places found selling liquor without a license. The Court is required to see that these reports are made, and if any officer is found derelict in the performance of his duty he is first suspended from duty by the Court, the District Attorney is notified, and the officer is indicted and tried ; if found guilty, he is removed from office, fined and imprisoned. This provision dispenses with the necessity of the private citizen taking action in the matter, and puts the responsibility of the enforcement of the law where it belongs—upon the officers themselves. The law also provides that any licensee convicted of violating this law shall have his license revoked, and shall not again be licensed. The result is that scarcely any complaints are made of the violation of the law by the licensees. The practical workings of this law are such, that the evils of the business have been reduced to a minimum, and it has met with the general approval of the people to such an extent that neither of the two great political parties ventures to recommend its change or repeal.

The Massachusetts law differs from the Pennsylvania law by providing for a vote in each town, as to whether licenses shall be granted or not ; and it provides that only one license shall be granted for each one thousand of the population, except in the city of Boston, where one may be granted for each five hundred of the population. It grades licenses to be granted into six classes. The first class is a license to sell liquors of all kinds ; the second, to sell malt liquors, cider and light wines ; the third, to sell malt liquors and cider only ; the fourth, fifth, and sixth classes apply to wholesale dealers and druggists. The fee for licenses of the first class is fixed at not less than one thousand dollars ; and for the second and third classes at not less than two

hundred and fifty dollars. Each community is left free to make the fee as much larger than this as it sees fit to do. The penalties, for violating the provisions of the license, include both a fine and imprisonment, and also the forfeiture of the license and the disqualification of the licensee to receive another license within one year's time. This law has given very general satisfaction in Massachusetts, it having taken the place of a former prohibitory law, which it was found impossible to successfully enforce.

I believe a modification of these two systems—first, providing for a high license; second, making a distinction between the selling of spirituous and malt liquors by providing a higher rate for spirituous than malt liquors; and lastly, providing substantially the Pennsylvania method of enforcement by making it the duty of certain officers to constantly watch the traffic and report to the courts, and by providing that all penalties for violation of the license shall carry with it a revocation of the license itself—would give New York the best law possible under present conditions.

**WARNER MILLER.**